



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

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Dennis J. Duffin
Director

August 4, 1986

AO-86-18

Mr. Stephen Meyers
Assistant Finance Director
Massachusetts Republican
State Committee
20 East Street
Boston, MA 02111

Dear Mr. Meyers:

This is in response to your recent request for an advisory opinion concerning the application of M.G.L. c. 55 to the recently announced Republican gubernatorial candidate.

You inquire as to whether George Kariotis, recently selected by the Republican State Committee as a gubernatorial candidate may receive contributions. His name will not appear on the primary ballot although he does hope to be a candidate on the general election ballot.

M.G.L. c. 55, §1 defines a candidate, in relevant part, as

"any individual who seeks nomination or election to public office, whether or not such individual is nominated or elected. For the purpose of this chapter, an individual shall be deemed to be seeking nomination or election to such office if he has (1) received a contribution or made an expenditure, or has given his consent for any other person or committee to receive a contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the specific public office for which he will seek nomination or election is known at the time the contribution is received or the expenditure made..."

Therefore, an individual is permitted to raise funds for the purpose of running for public office even if the particular office is not designated or even known. It necessarily follows therefore, that an individual can receive contributions whether or not his name is appearing on a particular ballot, provided that the receipt of the contributions and the making of all expenditures are consistent with applicable provisions of the campaign finance law.

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You have also inquired as to whether contributions received before an individual is certified to appear on the ballot are considered in determining eligibility for public financing. As concluded above, an individual may receive contributions and thereby become a candidate under the campaign finance law. M.G.L. c. 55A sets forth the statutory scheme for the public financing for statewide office candidates. A candidate must be certified by the state secretary as qualified for a particular ballot and having opposition on that ballot. A certified candidate who files a request with this office, together with the required bond, and has received qualifying contributions with a minimum amount required, is eligible to receive public financing.

Section 1 of c. 55A defines a qualifying contribution as

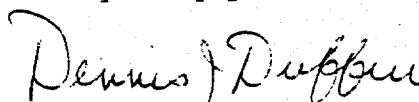
"'Qualifying contribution', any contribution made by an individual and deposited in a candidate's depository account as required by section nineteen of chapter fifty-five during the calendar year in which elections are held for statewide elective office or the next preceding calendar year except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds two hundred and fifty dollars or would exceed two hundred and fifty dollars when added to any such contribution previously made by the same individual during the calendar year in which elections are held for statewide office or the next preceding calendar year."

This definition very clearly specifies the requirements so that a contribution qualifies for use in public financing eligibility. This definition does not expect that all such contributions are raised after the individual is actually certified for a particular ballot and imposes no such requirement.

You are also concerned about the availability of public financing for a candidate who will not appear on a primary ballot but is selected as the party nominee by the Republican State Committee and will appear on the general election ballot. As long as that candidate fulfills all of the requirements for public financing, as contained throughout c. 55A, he will be eligible to receive limited public financing for the general election. This candidate must be certified by the Secretary of State as qualified for the ballot with opposition, must file the appropriate request and bond with this office as well as statements of qualifying contributions in the required amounts.

If you have any further questions, please do not hesitate to contact me.

Very truly yours,


Dennis J. Duffin
Director